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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,485	10/05/2001	Brian R. McCarthy	310048-668	5310

24201 7590 02/02/2005

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EXAMINER

CANGIALOSI, SALVATORE A

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

✓

**Office Action Summary**

Application No.

09/973,485

Applicant(s)

MCCARTHY, BRIAN R.

Examiner

Salvatore Cangialosi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-96 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-96 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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1. Claims 1-96 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Taken as a whole the claims recite an undue multiplicity of claims by virtue of the unreasonable number of claims presented would tend to obfuscate, confuse, and becloud the claimed invention. Because the examiner believes that in his judgment that twenty-five (25) claims are sufficient to properly define applicants' invention, applicants are required to select certain claims, not to exceed twenty-five for examination on the merits, See M.P.E.P. 2173.05(n). To be complete **the non-selected claims must be cancelled** or the applicant(s) must present appropriate arguments as to why the above rejection is in error. Note most patents (80%) have less than twenty claims while patents in excess of 100 claims are less than 0.344% of all cases filed and thus rare (See Federal Register: October 5, 1998 (Volume 63, Number 192, Page 53507)). Note also the new excess claim fees effective 12/8/04 as evidence of what is considered to be unreasonable. Applicant is afforded a written response due to the complexity of the case and to afford applicant sufficient time to make a judicious selection of the claims to prosecute.

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Any inquiry concerning this communication should be directed to Salvatore Cangialosi at telephone number (703) 305-1837. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached at (703) 305-9768.

**Any response to this action should be mailed to:**

Commissioner of Patent and Trademarks

Washington, D.C. 20231

**or faxed to (703)872-9306**

Hand delivered responses should be brought to Crystal Park V, 2451 Crystal Drive, Arlington, Virginia, Seventh Floor(Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 3600 Customer Service Office whose telephone number is (703) **308-4177**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 3600 Customer Service Office whose telephone number is (703) **308-4177**.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR)

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system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
SALVATORE CANGIALOSI  
PRIMARY EXAMINER  
ART UNIT 222